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Attorneys for Defendants Hartford Life and
Accident Insurance Company and
American President Lines, LTD

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PATRICIA A. HOFFER,)	NO. CV-08-2174-MHP
)	
Plaintiff,)	JOINT CASE MANAGEMENT
)	STATEMENT AND PROPOSED ORDER
VS.)	
)	Date: August 25, 2008
HARTFORD LIFE AND ACCIDENT)	Time: 4:00 P.M.
INSURANCE COMPANY; AMERICAN)	Crtm: 15, 18 th Floor
PRESIDENT LINES, LTD., and DOES)	
1 THROUGH 25,)	
)	
Defendants.)	

1 Plaintiff PATRICIA A. HOFFER ("Plaintiff") and defendants HARTFORD LIFE AND
2 ACCIDENT INSURANCE COMPANY ("Hartford") and AMERICAN PRESIDENT LINES
3 LTD ("APL") (collectively "defendants") submit the following Joint Case Management
4 Conference Statement in the captioned matter.

5 **1. Jurisdiction and Service.**

6 Subject matter jurisdiction over plaintiff's claims is predicated on 28 U.S.C. 1331
7 (federal question) inasmuch as Plaintiff's claims are brought under the Employee Retirement
8 Income Security Act of 1975 ("ERISA") 29 U.S.C. section 1001, *et seq.* All parties have been
9 served.

10 **2. Facts.**

11 Plaintiff is a former employee of APL. She was a participant in APL's group long term
12 disability plan ("the plan"). According to the complaint, Plaintiff became disabled and began
13 receiving disability benefits in September, 1997. Hartford paid benefits to her through March,
14 2007, when it determined she was no longer eligible for benefits under the group insurance
15 policy issued to APL. Plaintiff appealed the decision and provided various materials for
16 Hartford's review. Based on the administrative record, Hartford upheld its determination and
17 denied further benefits. Defendant APL terminated Plaintiff's employment on March 12, 2008.
18 This action followed.

19 The principal factual and legal disputes are whether Plaintiff is eligible for further
20 benefits under the policy and whether APL terminated Plaintiff's employment to deny her ERISA
21 benefits.

22 **3. Legal Issues.**

23 Defendant: The central legal issue in the case is whether Hartford abused its discretion in
24 reaching its determination that Plaintiff was no longer eligible for benefits under the plan.

25 Other legal issues are presented in the Motion to Dismiss or Strike filed by defendants on
26 July 10, 2008. Defendants contend that Plaintiff's complaint is defective for the various reasons
27

1 set forth in that motion.

2 Plaintiff: Whether Plaintiff was terminated by APL to deny her benefits under ERISA?

3 Regrettably, on the evening of August 12, 2008, Plaintiff succumbed to a cardiac arrest
4 requiring an appropriate motion for substitution of party Plaintiff.

5 **4. Motions.**

6 Defendants filed a motion to dismiss in lieu of a response on July 10, 2008. It was filed
7 prior to the case management conference to preserve defendants' right to seek dismissal pursuant
8 to F.R.C.P. 12(b)(6). At the time the motion was filed, the Court's Standing Orders had not been
9 served on defendants. As such, defendants were unaware of the Court's order requiring leave to
10 file a motion to dismiss prior to the case management conference. Pursuant to the instructions
11 received from the court, defendants filed an Ex Parte Application for Leave to File Motion to
12 Dismiss on July 11, 2008. The ex parte and the motion to dismiss are pending.

13 Plaintiff will file a necessary motion for substitution of party plaintiff as a result of the
14 death of Plaintiff on August 12, 2008.

15 **5. Amendment of Pleadings.**

16 Defendants motion to dismiss must be heard before the parties can make any
17 representations regarding amendments to the pleadings. Defendants filed the motion to dismiss
18 in lieu of an answer.

19 In view of the sudden death of Plaintiff and Defendant's certification of interested entities
20 or persons filed this date, Plaintiff will amend the within complaint to address such and related
21 issues.

22 **6. Evidence Preservation.**

23 Hartford has preserved the administrative record evaluated in making its determination
24 that plaintiff was ineligible for further benefits. The parties, through their counsel, represent that
25 they will take all reasonable measures to ensure the preservation of evidence relevant to the
26 issues reasonably evidence in this action, including interdiction of any document-destruction
27

1 program and any ongoing erasures of e-mails, voice mails, and other electronically-recorded
2 material.

3 **7. Disclosures.**

4 Initial disclosures have not been completed but the parties anticipate they will be
5 completed by September 8, 2008. Defendants will produce the administrative record.

6 **8. Discovery.**

7 No discovery has been taken. Defendants contend that no discovery beyond the
8 administrative record is relevant. Defendants will produce the entire administrative record.

9 Plaintiff will propound to Defendants appropriate interrogatories, requests for production
10 of documents, and requests for admissions. Plaintiff anticipates depositions of three individuals
11 including Defendant Hartford's expert witness.

12 **9. Class Actions.**

13 Not applicable.

14 **10. Related Cases.**

15 None.

16 **11. Relief.**

17 Plaintiff requests the following relief:

18 As to her First Cause of Action against Defendant HARTFORD:

19 1. Grant Plaintiff a declaratory judgment that Defendant HARTFORD has violated
20 Plaintiff's rights as guaranteed by the Employee Retirement Income Security Act, (ERISA) 29
21 U.S.C. Section 1001, *et seq.*;

22 2. Permanently enjoin Defendant HARTFORD, its agents, successors, and employees
23 and those acting in concert with them from engaging in each of the unlawful practices and
24 policies complained of herein;

25 3. Judgment in her favor and against Defendant HARTFORD for the amount of all
26 benefits due and owing under said Group Long Term Disability Insurance Policy ;

4. Punitive damages against Defendant HARTFORD;
5. An award of reasonable attorney's fees and costs; and
6. For such other and further relief as the Court deems proper and just.

As to her Second Cause of Action against Defendant APL:

1. Grant Plaintiff a declaratory judgment that Defendant APL has violated Plaintiff's rights as guaranteed by the Employee Retirement Income Security Act, (ERISA) 29 U.S.C. Section 1001, *et seq.*;

2. Permanently enjoin Defendant APL, its agents, successors, and employees and those acting in concert with them from engaging in each of the unlawful practices and policies complained of herein;

3. Judgment in her favor and against Defendant APL for the loss of all medical and related benefits under said plan;

4. Punitive damages against Defendant APL;
5. An award of reasonable attorney's fees and costs;
6. For such other and further relief as the Court deems proper and just.

As to her Third Cause of Action against Defendant HARTFORD:

1. For compensatory damages in an amount to be proven at trial;
2. For interest in an amount to be proven at trial;
3. Damages for emotional distress in an amount to be proven at trial;
4. Punitive damages in an amount to be proven at trial;
5. Attorney's fees in an amount to be proven at trial;
6. For costs of suit herein incurred; and
7. For such other and further relief as the Court may deem proper and just.

As to her Fourth Cause of Action Defendant HARTFORD:

1. For compensatory damages in an amount to be proven at trial;
2. For interest in an amount to be proven at trial;

3. Damages for emotional distress in an amount to be proven at trial;
4. Punitive damages in an amount to be proven at trial;
5. Attorney's fees in an amount to be proven at trial;
6. For costs of suit herein incurred; and
7. For such other and further relief as the Court may deem proper and just.

12. Settlement and ADR.

The parties have provided their ADR certifications. It is too early to gauge prospects for settlement, particularly given the outstanding motion to dismiss. However, assuming the motion to dismiss will have been resolved and assuming the case proceeds in one fashion or another, the parties have stipulated to Early Neutral Evaluation to be completed within 90 days of the referral.

13. Consent to Magistrate Judge For All Purposes.

Defendants previously filed a Declination to Proceed Before Magistrate.

14. Other References.

The parties do not believe this case is suitable for binding arbitration, reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues.

Defendants' Motion to Dismiss was filed to narrow some issues. Others (such as the standard of review) may be narrowed by stipulation. The parties may be able to stipulate to the contents of the administrative record. The issue whether the plan abused its discretion may be determined by dispositive motion.

16. Expedited Schedule.

Defendants contend that this matter may be handled on an expedited basis with streamlined procedures once the Motion to Dismiss has been decided.

Under the peculiar circumstances of this case, considering the death of Plaintiff, Defendants' pending motion and the necessity of appropriate motions by Plaintiff as discussed above, an expedited schedule herein seems inappropriate.

1 **17. Scheduling.**

2 Defendants do not believe dates for designation of experts or discovery cutoff are
3 necessary as the case should be decided on the administrative record. Depending upon the
4 outcome of the Motion to Dismiss, defendants believe the case may be set for dispositive motion
5 within six months.

6 Plaintiff believes that in view of the fact that Plaintiff's medical condition is the central
7 issue in this case against Defendant Hartford, designation of experts and discovery cutoff relative
8 thereto are peculiarly necessary. General pretrial and trial scheduling is also obviously necessary.

9 **18. Trial.**

10 If a trial is necessary, the case should be tried to the Court. Estimated length is one day.

11 Plaintiff has demanded jury trial herein which should be completed within not less than
12 four full court days.

13 **19. Disclosures of Non-party Interested Entities or Persons.**

14 Both parties have filed their Certification of Interested Entities or Persons required
15 by Civil Local Rule 3-16.

16 Plaintiff: Defendants' filing of August 15, 2008 of its Certification of Interested Entities
17 or Persons suggests entities which might come within the meaning of Local Rule 3-16.

18 Dated: August 17, 2008

KELLY, HOCKEL & KLEIN, P.C.

19
20 /s/ Thomas K. Hockel
21 By _____
 Thomas K. Hockel
 Attorneys for Defendants

22 Dated: August 17, 2008

LAW OFFICES OF CURTIS G. OLER

23
24 /s/ Curtis G. Oler
25 By: _____
 Curtis G. Oler
 Attorney for Plaintiff

IT IS SO ORDERED:

Dated: _____

JUDGE, U.S. DISTRICT COURT